



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

MKM:TH/MKP/MJL/KMT
F. #2017R01840

*271 Cadman Plaza East
Brooklyn, New York 11201*

April 11, 2019

By ECF

The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Keith Raniere, et al.
Criminal Docket No. 18-204 (S-2) (NGG)

Dear Judge Garaufis:

The government respectfully submits this letter in response to defendant Keith Raniere's letter requesting the government's exhibit list and witness list by Monday, April 15, 2019. Noting that the deadline for motions in limine is April 17, the defendant's letter states that it would be a "waste of the Court's time and resources" to consider motions in limine regarding "evidence the government is not going to offer." Def. Letter, DE 518.

The government notes that there are a significant number of pending motions, including ongoing privilege litigation, that will require additional time to resolve and will impact the evidence the government will seek to offer at trial in this case. Although the parties began briefing issues related to potentially privileged documents before Magistrate Judge Scanlon in December 2018, and issues on 249 specific documents were fully-briefed in February 2019, the parties only received decisions from the court on those 249 documents on April 4, 6 and 8, 2019, and those decisions will remain under seal (and not accessible to the government's trial team) until the court rules on the parties' proposed redactions. Once the government's trial team can view those decisions, the government may seek this Court's review of portions of those rulings de novo. Defense counsel has indicated that they also may seek review of portions of those rulings. The outcome of any such review by the Court may lead to the disclosure to the government's trial team of additional documents that will need to be reviewed prior to trial, and may lead the government to mark additional exhibits and/or notice additional witnesses. In addition, there are another 5,000 documents that the government's privilege team has determined are not privileged on which defense counsel must state any objections to disclosure to the trial team (the "5000 Documents"); however,

defense counsel indicated to Magistrate Judge Scanlon on March 15, 2019 that they were not going to prioritize review of the 5,000 Documents, and counsel for Nxivm (who appears to be the primary alleged privilege holder) is still in the process of obtaining the 5000 documents from the defendants and reviewing them.

In light of the foregoing, the government respectfully requests that the Court move the date for opening statements to May 13, 2019 in order to accommodate the significant pretrial issues that must be resolved in advance, and that other dates be scheduled accordingly. In light of the guilty pleas of three defendants so far, the government has streamlined its case and estimates that, with opening statements on May 13, 2019, the trial will be concluded by the end of June, consistent with what the Court informed the prospective jurors they should expect. The government sought the position of defense counsel as to this adjustment. Raniere objects, Russell takes no position, and the government has not heard from Bronfman on her position as of the filing of this letter.

The government respectfully requests that the Court enter the following proposed adjusted schedule:

A. Privilege

- April 19, 2019: Review by defendants of 5,000 documents and statement of any objections
- April 19, 2019: Deadline to seek review of Judge Scanlon's rulings relating to privilege

B. Motions in Limine

- April 22, 2019: Motions in Limine Due
- April 29, 2019: Responses Due

C. Juror Voir Dire

- April 29, 2019 – May 1, 2019

D. Government and Defense Trial Exhibits¹

- May 6, 2019

E. Opening Statements

- May 14, 2019

Respectfully submitted,

RICHARD P. DONOGHUE
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By: /s/

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cc: Clerk of Court (NGG) (by ECF)
Counsel of Record (by ECF)

¹ Counsel for Keith Raniere also requested a witness list on the same date as exhibits are exchanged. The government objects to this request. Defense counsel will have substantially all of the material the government is producing pursuant to 18 U.S.C. § 3500 by tomorrow and the government will notify the defense of the witnesses the government intends to call at least 48 hours prior to their expected testimony.